IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 23RD FEBRUARY 2007 / 4TH PHALGUNA 1928

Crl.MC.No. 439 of 2007()

SC.505/2006 of ADDL. SESSIONS COURT (ADHOC), THRISSUR

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PETITIONER: ACCUSED:

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1. SAINUDHEEN, S/O.MUHAMMEDKUTTY,
   VALIYAKATH HOUSE, ALOOR VILLAGE,
   KUNNAKULAM.

2. NASAR, S/O.MUHAMMED,
   AMBALATH HOUSE, PUTHUMANASSERY PAVARATTY
   VILLAGE.

3. VAHID, S/O.MUHAMMEDALI,
   PUTHUVEETTIL HOUSE, CHIRANALLOOR VILLAGE,
   KUNNAMKULAM.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS:

STATE OF KERALA, THROUGH THE
CIRCLE INSPECTOR OF POLICE,
VALAPPAD POLICE STATION, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/02/2007, A/W. CRMC 440 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NOs.439 & 440 OF 2007

Dated this the 23rd day of February, 2007

ORDER

The petitioners are accused in a prosecution, inter alia, under Sec.307 read with Sec.149 of the IPC. Final report has been filed against them in the same crime. But they have been committed by separate orders and hence two separate sessions cases are pending before the learned Additional Sessions Judge (Adhoc Fast Track-I), Thrissur. The petitioners are accused 5, 13, 23, 25 and 34 in the final report filed. The petitioners had already appeared before the learned Sessions Judge. They have been enlarged on bail. On a date when the case was posted for framing charges, the petitioners could not appear before the learned Sessions Judge and thereupon, they find themselves in the unenviable predicament of non-bailable warrants of arrest issued by the learned Sessions Judge chasing them. They are now prepared to surrender before the learned Judge. They apprehend that their applications for bail may not be

considered by the learned Sessions Judge on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioners have come to this Court for a direction under Sec.482 of the Cr.P.C. to the learned Sessions Judge to release them on bail when they appear and apply for bail.

2. I am not persuaded to agree that any directions deserve to be issued. It is for the petitioners to appear before the learned Sessions Judge and explain to the learned Sessions Judge the circumstances under which they could not earlier appear before the learned Sessions Judge. I have no reason to assume that the learned Sessions Judge would not consider the petitioners' application for regular bail on merits ,in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, these Crl.M.Cs. are dismissed; but with the observation that if the petitioners surrender before the learned Sessions Judge and seek bail after giving sufficient prior

notice to the Prosecutor in charge of the case, the learned Sessions Judge must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge